

REMARKS

Claims 1-64 are pending in this application. Claims 1-4, 6-9, 11-27, 30-50, 52-54, 56-61, and 63-64 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,708,780 (Levergood); claims 28-29 and 55 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Levergood in view of U.S. Patent 5,970,475 (Barnes); claims 10, 51, and 62 have been rejected under section 103(a) as being unpatentable over Levergood in view of U.S. Patent Application 2001100111238 (Eberhard). Following entry of the after-final amendment, claims 7, 11, 14, 21, and 22 will have been amended in order to more particularly point out the invention, and not for a reason related to patentability. Claims 1-6, 8-10, 12-13, 15-20, and 23 will have been cancelled without prejudice or disclaimer of the subject matter thereof.

Applicants respectfully submit that the claims are patentable for the following reasons:

The prior art cited does not teach the encryption of certain types of information recited in the claims

Claims 7, 14, 22, 31, 32, 35, 36, 37, 47, 48, 49, 58, 59, and 60 each call for certain information to be encrypted. For example, claim 7 calls for an HTTP request that includes information that identifies a purchaser. The other claims each call for a specific type of information to be encrypted.

As applicants previously explained in response to the January 21, 2004 Office Action, Levergood teaches a “session identifier” or “SID” that contains certain information. The information represented in an SID includes: a digital signature, an expiration date, a key identifier, a domain of files to which the SID authorizes access, a user identifier, a cryptographic hash, and an encrypted IP address. (Levergood, col. 5, ll. 56-65.) The only encrypted piece of information in this list is the encrypted IP address. However, the above-mentioned claims recite that certain other pieces of information are encrypted, and Levergood does not teach the encryption of these pieces of information. In particular, the various types of information that the claims recite as being encrypted are:

- Information that identifies the purchaser (claims 7, 32, and 35)

- Information relating to the purchaser (claim 14)
- Timestamp (claims 22, 37, 49, and 60)
- Information identifying an item of content (claims 31,¹ 36, and 47)
- Information identifying an individual who issued order for content (48)
- end-use information that enables the individualization of said electronic content (58)
- Information identifying a party to a transaction, or identifying an item purchased in a transaction (59)

Each of the above-mentioned claims has been rejected under section 102(b) as being anticipated by Levergood. Since the cited portion of Levergood does not either explicitly or inherently teach the feature of encrypting any of the above-listed information, the rejection of the above-listed claims should be withdrawn.

The prior art cited does not teach the symmetric key recited in claims 21, 30, 39, and 63

Claims 21, 30, 39, and 63 call for a “symmetric” key. The Examiner has read this feature onto the “secret key” mentioned in column 5, line 64 of Levergood. However, “secret” does not mean “symmetric.” There are secret keys (e.g., the private key in a public/private (asymmetric) key pair) that are not symmetric. Levergood does not use the term “symmetric” anywhere, and there is nothing in Levergood’s teachings that would make a secret key inherently a symmetric one (as opposed to, say, a secret asymmetric key).

Thus, the rejection of claims 21, 30, 39, and 63 on the ground of anticipation by Levergood has been shown to be incorrect, and should be withdrawn.

¹ Certain dependent claims, such as claim 31, rely on their base claim for the feature that a particular item of information is encrypted. For example, claim 31 calls for “said information” to identify an item of content, and the base claim (24) from which claim 31 depends specifies that the “information” referred to is encrypted.

The prior art cited does not teach the provision of two sets of software to two parties, as recited in claim 24

Claim 24 calls for two different sets of computer-executable instructions for use on two different computing devices. Levergood does not teach this feature. In rejecting claim 24, the Examiner has stated that Levergood's "authentication server" is the claimed "first computing device," and Levergood's "content server" is the claimed "second computing device." (See Office Action, pp. 7-8.) However, the Examiner has not addressed the fact that different sets of instructions are provided not merely for use on different devices, but also to different *parties*. Levergood does not teach that separate parties might receive separate sets of instructions since, in the cited portion of Levergood (col. 5, ll. 54-65 and col. 6, ll. 21-26), the authentication and content servers might be owned by the same parties. While the Examiner has stated that claim 24 might contain "technical differences that are not adequately reflected in the claims," applicants respectfully submit that the separate parties feature of claim 24 is sufficient to define over the portions of the prior art cited. Since the rejection of claim 24 does not address the separate parties issue, applicants respectfully submit that the rejection is deficient in this regard and should be withdrawn.

Claims 33 and 44

In response to applicants' previous arguments, the Examiner has replied that, with respect to claims 33 and 44, "while the technical differences may exist, they are not adequately reflected in the claims." However, it is unclear from this comment what prior art the Examiner is applying. In particular:

With respect to claim 33 it appears that the Examiner has not addressed the "transmitting" feature, which was added to claim 33 in the previous amendment. Since this feature has not been addressed, and the Examiner's general comments about whether "technical differences" are reflected in the claims do not explain how this feature is found in the prior art, applicants respectfully submit that the Examiner has not made a case to reject claim 33 in its present form, and the section 102 rejection of that claim should be withdrawn.

Moreover, with respect to claim 44, the Examiner appears to rely on the same argument made in the previous Office Action. Without an indication as to what additional art

or analysis the Examiner is relying on, applicants rely on their previous argument as to the patentability of claim 44, and respectfully submit that the section 102 rejection of claim 44 should be withdrawn.

Claim 54

Claim 54 calls for a transaction that is a “purchase transaction.” Regarding this feature, the Examiner agrees that “Levergood does not explicitly teach that users are buying the documents,” but finds that it would be “inherent to have a purchase transaction.” Claim 54 was rejected under section 102(b) on the ground of anticipation. Inherent anticipation requires that a feature that is not explicitly taught in the reference be “necessarily present,” as opposed to merely “probably or possibly present” in the reference. *Trintec Indus. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 1295, 63 U.S.P.Q.2d 1597 (Fed. Cir. 2002). There is nothing necessary about a purchase transaction preceding the acquisition of content. Content can be given away for free, rented, distributed on a trial basis prior to purchase, etc. The purchase of content is simply a non-inherent feature that Levergood does not teach. Thus, applicants respectfully submit that the rejection of claim 54 should be withdrawn.

Supplemental IDS and PTO form 1449

On April 23, 2004, applicants submitted a supplemental IDS to have additional references considered. The Examiner states that form 1449 was not received, and that the additional references have thus not been considered. Applicants have provided herewith a copy of their April 23, 2004 IDS submission, together with Form 1449 and a copy of one of the references. (There were two references; one was provided, and the other was exempt from the requirement to provide a copy.) Additionally, applicants have provided a copy of the stamped postcard, showing receipt of the form 1449 on April 23, 2004 by the Patent and Trademark Office. Applicants respectfully request that the Examiner consider the references submitted, and return the form with the references initialed.


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**PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116**

Conclusion

All of the pending claims have either been shown above to be patentable, or are dependent on claims that have been shown to be patentable. Thus, applicants respectfully submit that this case is in condition for allowance, and request that the Examiner reconsider the Final Rejection and issue a Notice of Allowance.

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